IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 24TH MAY 2007 / 3RD JYAISHTA 1929

Crl.MC.No. 1676 of 2007()

CRIME NO.129/04 OF THE KAMBALAKKAD POLICE STATION, PANAMARAM, MANANTHAVADY.

PETITIONER: ACCUSED

JAISON, S/O ULAHANNAN,
MUNDAPPILAVUNGAL HOUSE,
ARINCHUMALA P.O.,
PANAMURAM, WAYANAD.

BY ADV. SRI.LALJI P.THOMAS

RESPONDENTS: RESPONDENT/COMPLAINANT

SUB INSPECTOR OF POLICE,
KAMBALAKKAD, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY P.P. SRI. JIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 24/05/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 1676 OF 2007

Dated this the 24th day of May, 2007

ORDER

The petitioner faces indictment in a prosecution under the provisions of the Kerala Abkari Act. The crux of the allegations against him is that he was found to keep in his possession for sale an intoxicating liquid which on analysis was found to contain ethyl alcohol. The alleged detection took place on 6/7/04 at 5.45 p.m. The matter was under investigation for a long period of time. Final report has been filed only recently, it is submitted.

2. The petitioner has rushed to this Court with this petition under Sec.482 of the Cr.P.C. with a prayer that the prosecution may be quashed. This is a fit case where the extraordinary inherent jurisdiction ought to be invoked, submits the learned counsel for the petitioner.

3. What are the grounds? First of all, it is contended

that political animosity is prompting the prosecution to initiate such false proceedings against the petitioner. At the moment and with the materials presently available, such a conclusion does not appear to be even remotely possible.

4. Secondly, it is contended that there is no satisfactory material to show that the premises from where the recovery was effected was in the possession of the petitioner. Even the First Information Statement reveals that the petitioner was carrying on sale in the premises when the detection of the offence took place. The theory of the petitioner being not responsible for possession of the premises cannot also, in these circumstances, be accepted at the moment.

5. Thirdly, it is contended that there is nothing to show that the liquid seized is a contraband article under the Kerala Abkari Act. The mere fact that the ethyl alcohol was detected on analysis on a much later date is no guarantee for the proposition that the article in question/liquid contained alcohol on the date of detection, it is contended. The learned counsel points out that many liquid which may not be found to contain any percentage of ethyl alcohol today may self-generate such alcohol and can be seen to consist of such alcohol also on later

dates. The precise date of analysis is not pointed out to this Court. Such a mere possibility cannot also lead this Court at the moment to come to the conclusion that the liquid seized did not contain ethyl alcohol on the date of detection.

6. I may hasten to observe that I have not intended to express any final opinion on contested aspects. I am called upon to invoke the extraordinary inherent jurisdiction under Sec.482 of the Cr.P.C. Even the mere fact that the accused may be entitled for discharge or acquittal at later stages of trial cannot ipso facto persuade this Court to invoke such jurisdiction. Such jurisdiction has to be invoked sparingly and in exceptional cases and that too only in aid of justice. There is no reason at the moment to invoke such powers.

7. This Crl.M.C. is, in these circumstances, dismissed.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge